

Remarks:

Claims 1-25 are currently pending in the application. By the present amendment claims 8 and 15 are amended and claims 14, 16-17 have been canceled. Claims 8 and 15 are amended to more clearly define the invention.

Applicants believe the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto.

Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

All of the rejections are traversed for failing to meet the *prima facie* requirements required under *Graham v. John Deere Co.*, 383 U.S. 1 (1966), which expressly requires the following factual inquiries: (1) determining the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the art. All of the rejections must fail because the Examiner has not properly construed the term "sponsored relationship" as it is used in the specification in claims. In all cases, the Examiner makes the assumption that "sponsored relationship" is nothing more than the presence of advertising on an appliance. However, the specification makes clear that a sponsored relationship requires more than just advertising, even though advertising may be used in establishing a sponsored relationship. In other words, while advertising may be used to create a sponsored relationship, not all advertising creates a sponsored relationship.

To create or indicate a sponsored relationship, as that term is used in the specification and claims, the advertising must indicate to the consumer that the product is sponsored by the advertiser and is not just a media for advertising. All the prior art cited by the Examiner to date fails to disclose any type of advertising that indicates a sponsorship relationship. In all cases, the appliance is merely a media for delivering the advertising, but it does not indicate the relationship as required by the claims. The sponsored relationship will result in a mental

connection by the consumer of the relationship between the sponsor and the appliance, such that the consumer will think of the sponsor when they think of the appliance.

More importantly, the sponsored relationship as claimed requires a contractual relationship between the sponsor and the seller of the appliance, which is expressly described in great detail in the application from paragraphs 38-53. None of the prior art cited by the Examiner discloses the creation of such a formal relationship as part of the sponsorship relationship.

Thus, the term sponsored relationship requires a formal relationship between the sponsor and the seller of the product as well as an indication, which can be done by advertising, that the sponsored relationship exists.

Allowable Subject Matter

It is respectfully noted that while the summary page of the Office Action indicates that claim 13 is rejected, there is no substantive rejection of claim 13. Therefore, it appears that claim 13 is allowable. Notification of the allowability of claim 13 is respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 1-10, 12 and 14 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,330,261 to Bennett ("Bennett '261") in view of U.S. Patent Application Publication No. 2002/0000092 to Sharood et al. ("Sharood '092"). The rejection is respectfully traversed. Claim 14 has been canceled; therefore, the rejection with respect to this claim is moot.

The primary prior art reference Bennett '261 cited by the Examiner discloses a cooler door display rack for a cooler having a transparent door, wherein the display rack is secured to the inside surface of the cooler door such that the front side is located adjacent the transparent door interior face. Further, the display rack is adapted to receive advertising or promotional messages viewable by the consuming public through the cooler doors.

Sharood '092 discloses a unit that attaches to a refrigeration appliance, such as a freezer, or refrigerator, to alert the user of a sensed condition within the appliance that food spoilage may occur.

The rejection is traversed for failing to meet the prima facie requirements required under *Graham v. John Deere Co.*, 383 U.S. 1 (1966), which expressly requires the following factual inquiries: (1) determining the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the art. The rejection fails to meet the first two factual inquiries because the combination of Bennett '261 and Sharood '092 is based on several mischaracterizations of both Bennett and Sharood. As the prior art is mischaracterized, it is impossible for the first two factual inquiries to be satisfied.

Looking at the specific mischaracterizations, the Examiner states that Bennett teaches "a method of creating a sponsored appliance comprising the steps of: b. incorporating sponsorship material into the appliance (see FIG. 1, ABC Cola)." [*Office Action*, page 2]. This statement interprets the teaching of Bennett and creates disclosure that is not present in Bennett. Bennett only teaches a display rack that can display advertising or promotional message placards. "Advertising or promotional messages placed in the front of the display rack are visible to consumers when approaching the cooler to make a purchase." [*Bennett*, column 3, lines 52-54]. Bennett states it is important for the cooler or storage compartment door to be constructed of a transparent material, thereby allowing the message displayed in front message receiving slot to be seen by consumers. [*Bennett*, column 4, lines 41-45]. The presence of advertising material does not establish a sponsored relationship as previously described. There is no disclosure in Bennett of the formal relationship between the seller of the cooler and the advertiser of a sponsorship of the cooler. Bennett teaches nothing more than traditional advertising for the products in the cooler, without a sponsorship of the cooler.

The Examiner also mischaracterizes Sharood '092 by stating that Sharood discloses "creating a sponsored relationship between a refrigerator sponsor and a refrigerator seller (See paragraph [0229] which discusses coupons (subsidy/sponsorship) for use of an appliance such as a washing machine. Coupling the discussion of refrigerator items and shopping delivery service (grocery store) and FIG. 26B (refrigerator), one can infer the refrigerator sponsorship as well. See paragraph [0004] for further sponsorship (coupons) of appliances)." [*Office action*, page 2-3]. Sharood does not teach sponsorship, as the

Examiner states, only that coupons can be offered. Again, the presence of advertising alone, even in the form of coupons, does not indicate that the washing machine is sponsored. Moreover, Sharood '092 does not disclose any formal relationship between the seller of the washing machine and the advertiser. The coupons are nothing more than traditional advertising, which is fundamentally different than the sponsored relationship described in the Applicant's invention.

The combination is also rejected as it is based on the mischaracterized teaching of the references. Had the references been properly characterized, the combination would not have been made.

Assuming, *arguendo*, that the combination may be made, the combination does not reach the claimed invention. The combination of Bennett '261 and Sharood '092 would result in a networked appliance that was able to display advertising or promotional messages, but there would be no sponsored relationship for the appliance and the advertising would not indicate such because neither Bennett nor Sharood teach anything about a sponsored relationship between an appliance sponsor and an appliance seller, as called for in both independent claims 1 and 8.

It would not have been obvious to one of ordinary skill in the art to provide the missing element of the sponsored relationship as required by claim 1 and 8 as the combination lacks any such teaching of providing such a relationship. The sponsored relationship provides an additional utility that is not found in the combination.

Claim 8 further calls for the incentive to be a direct incentive, which is defined in the specification as "a monetary payment from the sponsor to the seller, which the seller uses to subsidize or decrease the sale price of the appliance." [*specification*, Paragraph 31]. The combination does not disclose such a direct incentive.

Therefore the combination of Bennett and Sharood fails to reach independent claims 1 and 8, as it completely lacks a claimed element or elements. Claims 2-7, 9-13 are also patentable over the combination based on their ultimate dependency on claim 1 or 8.

Further, claim 7 is patentable over the combination of Bennett '261 and Sharood '092 because the combination is also based on a mischaracterization of Bennett. The Examiner

states that Bennett discloses “incorporating modules which cooperate with a particular packaging design of the sponsor into the appliance (see FIGS. 1 and 9, cutouts for the sponsored cola cans).” [*Office Action*, page 4]. This statement misconstrues the teaching of Bennett in that any typical beverage can, and likely many other beverage containers, could be placed in the product retainer shelf as described. [see *Bennett*, column 5, lines 28-35]. For this reason, the combination of Bennett and Sharood fails to reach dependent claim 7, as it does not include incorporating modules which cooperate with a particular packaging design of the sponsor into the appliance. Regardless, claim 7 is patentable and non-obvious over the combination because of its dependency on claim 8.

Claim 11 stands rejected under 35 USC 103(a) as being unpatentable over Bennett ‘261 in view of U.S. Patent No. 5,437,503 to Baker et al. (“Baker ‘503”). The rejection is respectfully traversed.

Claim 11 depends off of claim 8, which is patentable for the reasons previously stated. Therefore claim 11 is patentable because of its dependency on claim 8.

Regardless, the rejection of Bennett ‘261 and Baker ‘503 do not meet the *prima facie* requirements in that it is based on a mischaracterization of Bennett, as previously described. Baker, like Bennett, does not disclose the Applicants’ claimed sponsored appliance or a direct incentive to accept the sponsorship material. Baker teaches of a modular storage drawer assembly that may fit loosely under the shelf so that air can flow into the drawer, or it can be tightly sealed against the under side of the shelf to restrict air flow and thus control the atmosphere in that drawer. [*Baker*, column 2, lines 36-40]. Therefore, Baker does not address the shortcomings of Bennett with respect to claim 8. Thus, any combination of Bennett and Baker would necessarily lack the sponsored appliance and direct incentive, the resulting combination would not render claim 8 obvious, making claim 8 patentable and non-obvious over the combination. Claim 11 is likewise patentable and non-obvious over the combination because of its dependency on claim 8.

Claims 15-21 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 6,393,848 to Roh et al. (“Roh ‘848”) in view of Sharood ‘092. The rejection is

respectfully traversed. Claims 16 and 17 have been canceled; therefore, the rejection with respect to those claims is moot.

Roh '848 discloses an internet refrigerator and a method of operating the internet refrigerator which enables the remote control of the refrigerator. Roh teaches that the information received through the internet includes, among other things, "information on a menu for health from the information provider". [Roh, column 4, lines 59-60]. Further, that information stored in the refrigerator's memory may include "cooking information and menu information personally prepared by the user in consideration of dieting and health, and cooking information and menu information in consideration of dieting and health provided from the external communication devices to through the Internet." [Roh, column 7, lines 52-61].

The rejection is traversed for failing to meet the prima facie requirements required under *Graham v. John Deere Co.*, 383 U.S. 1 (1966), because the combination is based on a mischaracterization of the references, which renders it impossible to satisfy the first two factual inquiries.

Looking at the specific mischaracterizations, the Examiner states that Roh discloses "a method of sponsoring a healthy refrigerator... (see FIG. 8, and the health tip on apples along with its nutritional information, on the front door of the refrigerator)." [Office Action, page 7]. Roh makes no teaching of a sponsored appliance and simply states that information on a menu for health can be provided via the internet. This is not the equivalent to incorporating a healthy habits message sponsored by the refrigerator sponsor into the refrigerator to form a sponsored refrigerator, as required by claim 15. The Examiner also incorrectly states that the refrigerator disclosed in Roh includes the step of "designing the refrigerator for allowing healthy foods to be more easily seen and accessed (see FIGS. 9 and 10, and column 6, lines 24-31.)." [Office Action, page 9]. More correctly, Roh teaches "a diagram illustrating another sub-window displayed... that shows the internal structure of the refrigerator displayed on the LCD." [Roh, column 6, lines 24-27]. This is fundamentally different than designing the refrigerator for allowing healthy foods to be more easily seen and accessed, as required by claim 21. The Examiner also states that Sharood discloses creating

a sponsored relationship, which, as described above, is a mischaracterization and creates disclosure that is not present. Neither Roh nor Sharood make any teaching about a sponsored appliance or a direct purchase incentive or providing a healthy habits message as provided by the sponsor.

The combination is also rejected as it is based on the mischaracterized teaching of the references. Had the references been properly characterized, the combination would not have been made.

Assuming, *arguendo*, that the references can be combined, the combination does not reach the claimed invention. Neither Roh '848 nor Sharood '092 teach anything about creating a sponsored relationship between a refrigerator sponsor and a refrigerator seller or incorporating a healthy habits message sponsored by the refrigerator sponsor into the refrigerator to form a sponsored refrigerator. As previously stated, the term "sponsored relationship" requires a formal relationship between the sponsor and the seller of the product as well as an indication that the sponsored relationship exists. Therefore, the combination of Roh and Sharood fails to reach independent claims 15 and 21 as it completely lacks a claimed element. Claims 18-20 are also patentable over the combination based on their ultimate dependency on claim 15.

Claims 22, 24 and 25 stand rejected under 35 USC 103(a) as being unpatentable over Roh '848 in view of Sharood '092, and further in view of Bennett '261, and U.S. Patent No. 6,932,450 to Mandel ("Mandel '450"), and Baker '503. The rejection is respectfully traversed.

Mandel '450 discloses a refrigerator contents viewing system used to enhance the viewing of food items stored on a rear portion of a shelf in the refrigerator. The contents viewing system is comprised of a mirror that is mounted underneath an upper shelf for the purpose of viewing the objects located on the lower shelf.

The rejection is traversed for failing to meet the prima facie requirements required under *Graham v. John Deere Co.*, 383 U.S. 1 (1966), because the rejection fails to meet the first two factual inquiries because the combination of Roh '848 and Sharood '092, and further in view of Bennett '261, Mandel '450, and Baker '503 is based on

mischaracterizations of all of the references. As the prior art is mischaracterized, it is impossible for the first two factual inquiries to be satisfied.

As claims 22, 24 and 25 depend off of claim 21, the rejection will initially be addressed with respect to claim 21. For the reasons previously provided, neither Bennett '261 nor Mandel '450 remedy the shortcomings of Roh '848 in view of Sharood '092, with respect to independent claim 21. Specifically, Roh '848, Sharood '092, Bennett '261, nor Mandel '450 teach creating a sponsored relationship for a healthy refrigerator or providing the refrigerator with a purchase incentive. Again, a sponsored relationship requires a formal contractual relationship between the sponsor and the seller of the product, as well as an indication that that relationship exists. Regardless of how the references are combined, they will not disclose creating a sponsored relationship between a refrigerator sponsor and a refrigerator seller, designing the refrigerator for allowing healthy foods to be more easily seen and accessed, or providing the refrigerator with a purchase incentive required by independent claim 21. Therefore, the resulting combination would not render claim 21 obvious, making claim 21 patentable and non-obvious over the combination. Claims 22, 24, and 25 are likewise patentable and non-obvious over the combination because of their dependency on claim 21.

It is respectfully submitted that the claims are allowable over the prior art of record. Prompt notification of allowability is respectfully requested.

Respectfully submitted,

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